

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY MR. NEY

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Continuity in Rep-
3 resentation Act of 2005”.

4 SEC. 2. REQUIRING SPECIAL ELECTIONS TO BE HELD TO
5 FILL VACANCIES IN HOUSE IN EXTRAOR-
6 DINARY CIRCUMSTANCES.

7 Section 26 of the Revised Statutes of the United
8 States (2 U.S.C. 8) is amended—

9 (1) by striking “The time” and inserting “(a)
10 IN GENERAL.—Except as provided in subsection (b),
11 the time”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(b) SPECIAL RULES IN EXTRAORDINARY CIR-
15 CUMSTANCES.—

16 “(1) IN GENERAL.—In extraordinary cir-
17 cumstances, the executive authority of any State in
18 which a vacancy exists in its representation in the

1 House of Representatives shall issue a writ of elec-
2 tion to fill such vacancy by special election.

3 “(2) TIMING OF SPECIAL ELECTION.—A special
4 election held under this subsection to fill a vacancy
5 shall take place not later than 45 days after the
6 Speaker of the House of Representatives announces
7 that the vacancy exists, unless, during the 75-day
8 period which begins on the date of the announce-
9 ment of the vacancy—

10 “(A) a regularly scheduled general election
11 for the office involved is to be held; or

12 “(B) another special election for the office
13 involved is to be held, pursuant to a writ for a
14 special election issued by the chief executive of
15 the State prior to the date of the announcement
16 of the vacancy.

17 “(3) NOMINATIONS BY PARTIES.—If a special
18 election is to be held under this subsection, the de-
19 termination of the candidates who will run in such
20 election shall be made—

21 “(A) by nominations made not later than
22 10 days after the Speaker announces that the
23 vacancy exists by the political parties of the
24 State that are authorized by State law to nomi-
25 nate candidates for the election; or

1 “(B) by any other method the State con-
2 siders appropriate, including holding primary
3 elections, that will ensure that the State will
4 hold the special election within the deadline re-
5 quired under paragraph (2).

6 “(4) EXTRAORDINARY CIRCUMSTANCES.—

7 “(A) IN GENERAL.—In this subsection,
8 ‘extraordinary circumstances’ occur when the
9 Speaker of the House of Representatives an-
10 nounces that vacancies in the representation
11 from the States in the House exceed 100.

12 “(B) JUDICIAL REVIEW.—If any action is
13 brought for declaratory or injunctive relief to
14 challenge an announcement made under sub-
15 paragraph (A), the following rules shall apply:

16 “(i) Not later than 2 days after the
17 announcement, the action shall be filed in
18 the United States District Court having ju-
19 risdiction in the district of the Member of
20 the House of Representatives whose seat
21 has been announced to be vacant and shall
22 be heard by a 3-judge court convened pur-
23 suant to section 2284 of title 28, United
24 States Code.

1 “(ii) A copy of the complaint shall be
2 delivered promptly to the Clerk of the
3 House of Representatives.

4 “(iii) A final decision in the action
5 shall be made within 3 days of the filing
6 of such action and shall not be reviewable.

7 “(iv) The executive authority of the
8 State that contains the district of the
9 Member of the House of Representatives
10 whose seat has been announced to be va-
11 cant shall have the right to intervene either
12 in support of or opposition to the position
13 of a party to the case regarding the an-
14 nouncement of such vacancy.

15 “(5) PROTECTING ABILITY OF ABSENT MILI-
16 TARY AND OVERSEAS VOTERS TO PARTICIPATE IN
17 SPECIAL ELECTIONS.—

18 “(A) DEADLINE FOR TRANSMITTAL OF AB-
19 SENTEE BALLOTS.—In conducting a special
20 election held under this subsection to fill a va-
21 cancy in its representation, the State shall en-
22 sure to the greatest extent practicable (includ-
23 ing through the use of electronic means) that
24 absentee ballots for the election are transmitted
25 to absent uniformed services voters and over-

1 seas voters (as such terms are defined in the
2 Uniformed and Overseas Citizens Absentee Vot-
3 ing Act) not later than 15 days after the
4 Speaker of the House of Representatives an-
5 nounces that the vacancy exists.

6 “(B) PERIOD FOR BALLOT TRANSIT
7 TIME.—Notwithstanding the deadlines referred
8 to in paragraphs (2) and (3), in the case of an
9 individual who is an absent uniformed services
10 voter or an overseas voter (as such terms are
11 defined in the Uniformed and Overseas Citizens
12 Absentee Voting Act), a State shall accept and
13 process any otherwise valid ballot or other elec-
14 tion material from the voter so long as the bal-
15 lot or other material is received by the appro-
16 priate State election official not later than 45
17 days after the State transmits the ballot or
18 other material to the voter.

19 “(6) APPLICATION TO DISTRICT OF COLUMBIA
20 AND TERRITORIES.—This subsection shall apply—

21 “(A) to a Delegate or Resident Commis-
22 sioner to the Congress in the same manner as
23 it applies to a Member of the House of Rep-
24 resentatives; and

1 “(B) to the District of Columbia, the Com-
2 monwealth of Puerto Rico, American Samoa,
3 Guam, and the United States Virgin Islands in
4 the same manner as it applies to a State, ex-
5 cept that a vacancy in the representation from
6 any such jurisdiction in the House shall not be
7 taken into account by the Speaker in deter-
8 mining whether vacancies in the representation
9 from the States in the House exceed 100 for
10 purposes of paragraph (4)(A).

11 “(7) RULE OF CONSTRUCTION REGARDING FED-
12 ERAL ELECTION LAWS.—Nothing in this subsection
13 may be construed to affect the application to special
14 elections under this subsection of any Federal law
15 governing the administration of elections for Federal
16 office (including any law providing for the enforce-
17 ment of any such law), including, but not limited to,
18 the following:

19 “(A) The Voting Rights Act of 1965 (42
20 U.S.C. 1973 et seq.), as amended.

21 “(B) The Voting Accessibility for the El-
22 derly and Handicapped Act (42 U.S.C. 1973ee
23 et seq.), as amended.

1 “(C) The Uniformed and Overseas Citizens
2 Absentee Voting Act (42 U.S.C. 1973ff et seq.),
3 as amended.

4 “(D) The National Voter Registration Act
5 of 1993 (42 U.S.C. 1973gg et seq.), as amend-
6 ed.

7 “(E) The Americans With Disabilities Act
8 of 1990 (42 U.S.C. 12101 et seq.), as amended.

9 “(F) The Rehabilitation Act of 1973 (29
10 U.S.C. 701 et seq.), as amended.

11 “(G) The Help America Vote Act of 2002
12 (42 U.S.C. 15301 et seq.), as amended.”.